

**JOINT POWERS AGREEMENT
FOR E-911 COMMUNICATIONS
(Revised November 5, 2014)**

This Joint Powers Agreement will supersede the previous Joint Powers Agreement signed by all entities dated June 23, 1999 and June 16, 2008 and will become the final JPA.

This agreement is effective upon approval of the State Department of Finance and Administration between **THE CITY OF ESPANOLA, THE VILLAGE OF CHAMA, OHKAY OWINGEH, THE JICARILLA APACHE NATION, AND THE COUNTY OF RIO ARRIBA** ("the parties") pursuant to the Joint Powers Agreement Act, NMSA 1978 11-1-1, et seq., as amended.

HISTORY

The City of Espanola, The Village of Chama, Ohkay Owingeh, The Jicarilla Apache Nation, The County of Rio Arriba and Santa Fe County entered into a Joint Powers Agreement (JPA) for Consolidated Communications on June 23, 1999 and approved by the Department of Finance and Administration (DFA). Santa Fe County, withdrew on March 30, 2010.

RECITAL

WHEREAS, the parties desire to establish and provide a centralized enhanced 911 system and improve public emergency and law enforcement services to their citizens;

WHEREAS, the parties within their respective jurisdiction may incur costs for the purchase or lease, installation and maintenance of equipment necessary for the establishment of a E-911 system at public safety answering points and may pay such costs through disbursements from the enhanced 911 fund pursuant to NMSA 1978 63-9D-4;

NOW, THEREFORE, in consideration of the premises, terms, covenants and conditions herein, the parties agree as follows:

I. GENERAL PROVISIONS

- A. Pursuant to the New Mexico Enhanced 911 Act ("Act"), NMSA 1978 63-9D-4 (B) the Espanola/Rio Arriba E-911 Communications Center ("District") is formed as a separate legal entity, for the express purpose of exercising the powers conferred upon local governing bodies by the Act. The District shall oversee operations of enhanced 911 services within the District boundaries and act as the vehicle through which the parties receive funding pursuant to the Act. The District

boundaries will contain the City limits of Espanola, Dulce the Jicarilla Apache Nation, Ohkay Owingeh, the Village of Chama, and the County of Rio Arriba.

B. The parties agree that, by execution of this Agreement, with full powers to enter in contracts, to sue and be sued, and otherwise do all things necessary to carry out the duties delegated hereunder:

1. By entering into this agreement, none of the parties shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject of the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978, as amended. This paragraph is intended only to define the liabilities as governed by federal, state, local, or common law and the New Mexico Tort claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.
2. Any privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation and other benefits which apply to the activity of officers, agents or employees of any of the parties to this Agreement when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of the Joint Powers Agreements Act, Section 11-1-1, et seq.

II. BOARD OF DIRECTORS

A. The District shall be controlled by a Board of representatives from each of the parties. The Board will be identified as the Espanola Rio Arriba E-911 Board (Board) and shall consist of:

Two (2) members from the City of Espanola that are appointed by the City's Governing Body.

Two (2) members from Rio Arriba County that are appointed by the County's Governing Body.

One (1) member from Jicarilla Apache Nation that is appointed by the Tribal Council, Ex-Officio.

One (1) member from the New Mexico State Police- Espanola District, Ex-Officio.

One (1) member from the Village of Chama that is appointed by the Village Governing Body.

One (1) member from Ohkay Owingeh that is appointed by the Tribal Council.

- B. Each Board member (except as provided herein) in good standing shall have one vote. A majority of the members shall constitute a quorum and a majority vote shall decide any issue.
- (1) To be in good standing, a party must be up-to-date with quarterly payments as discussed in Section IV (D) of this agreement and/or agreed upon payments.
 - (2) Any party who is not in good standing may have a seat on the Board but shall not have a vote until the party's contributions are current.
 - (3) The Jicarilla Apache Nation member shall be considered an Ex-Officio Member except for those issues directly related to E-911 funding available through the Department of Finance and Administration, Local Government Division.
 - (4) The New Mexico State Police member shall be considered an Ex-Officio Member.

III. GENERAL POWERS OF THE BOARD OF DIRECTORS

- A. At its first meeting, the Board shall elect a chairperson, a secretary, and other Officers, as the Board shall require. Officers shall remain voting members of the Board. The terms of each Board Member shall be at the discretion of each entity. All Board Members are eligible for re-appointment at the discretion of each entity.
- B. As soon as practicable the Board shall notify The Department of Finance and Administration, Local Government Division ("DFA/LGD") and the local exchange telephone company providing local exchange service to the 911 service area of:
 1. The boundaries of the District; and
 2. The costs to the board to purchase, lease, install and maintain the equipment necessary to provide 911 emergency services in the 911 service area pursuant to 63-9D-8 (F) of the Act.

- C. The Board shall create such committees as it deems necessary.
- D. The Board shall conduct its meeting in accordance with Robert's Rules of Order.
- E. The Board shall conduct the affairs of the District and shall adopt such bylaws and rules as it deems reasonable and necessary to conduct the affairs of the District, including specific provisions for the hiring and training of all E-911 personnel working for the District.
- F. The Board will make monthly reports to the parties and will make recommendations to The DFA/LGD regarding the future development of emergency communications within the District.
- G. The Emergency Medical Dispatch (EMD) Medical Director shall serve in an advisory capacity to the Espanola/Rio Arriba E-911 Board of Directors.

IV. POWERS OF THE DISTRICT

- A. The District shall have the power, by direction of its Board, to:
 - 1. Establish and operate an Enhanced 911 communications center to provide emergency medical, fire and law enforcement communications within the District boundaries 365 days a year 24 hours a day;
 - 2. Exercise all rights and powers granted to a "local governing body" under the E-911 Act;
 - 3. Direct the fiscal agent to pay for equipment, software, installations of equipment and software, and all related maintenance and support services, by means of lease, purchase or lease purchase subject to the provisions of the Procurement Code.
 - 4. File an application with the DFA/LGD requesting approval for disbursement from the 911 fund pursuant to § 63-9D-8(F) of the Act.
 - 5. In addition, the Authority may do any other act as may be necessary to provide effective and efficient emergency medical, fire and law enforcement communications; including, but not limited to, the contracting with equipment vendors and service suppliers for the purpose of obtaining the benefit of technological developments which the Authority deems necessary to improve or enhance the quality and efficiency of service to be provided hereunder.

6. The Authority may enter into contracts with other governmental public safety agencies to provide communication services at a cost to be determined by the Authority.
7. The Authority shall not have the right or authority to force the relinquishment, reassignment, relicensing or use of any radio frequency or frequencies that are presently licensed to any of the parties to this Agreement or any of their agencies.
8. Hire a Director to manage the day-to-day operations of the enhanced 911 service including appointment, discipline, supervision and evaluation of staff subject to the approval of the Board.
9. Develop and adopt personnel procedures, including grievance procedures, for all E-911 personnel working for the District;
10. Direct the fiscal agent to pay all E-911 personnel working for the District.
11. Administer the funds provided for enhanced 911 services by the Act.

B. Money received from the enhanced 911 fund shall be spent in accordance with rules adopted by the Local Government Division of the Department of Finance and Administration.

C. The Board shall not sell, lease, or make available for duplication or use by any person, utility, or business (other than to the telephone services providing the enhanced 911 network) any rural addressing system and data base information provided to the District by any other parties, without the express written permission of that party.

V. BUDGET AND OPERATING COSTS

- A. The annual budget of the Authority shall be submitted to the Board of County Commissioners of Rio Arriba County and shall not be effective until approved by the Board of County Commissioners. Unless otherwise provided in this Agreement, the County shall provide the funds that are necessary for the Authority's administrative and operational expenses from the revenue generated by the County Emergency Communications and Emergency Medical Services Gross Receipts Tax (the G.R. tax). The Authority shall pay a reasonable fee each fiscal year, to be determined by the Authority's Board of Directors, to compensate the City/ County for the administrative support services the County has provided to the Authority during the preceding fiscal year.

- B. If the county terminates its participation in this agreement, the County shall, notwithstanding its non-participation, continue to provide the funds set out in this Agreement that are reasonably necessary for administrative and operational expenses.
- C. The City of Espanola shall act as fiscal agent for the District on behalf of the parties. As the fiscal agent, the City of Espanola shall manage all revenues, maintain all accounts and receive and disburse all funds on behalf of the District and at the direction of the Board. Such compensation shall be approved by the Board and shall not exceed one percent (1%) of the District's operating budget. The County of Rio Arriba shall become Fiscal Agent and be compensated the same when a Consolidated Center is built and moved to the County site.
- D. The funds of the District shall be held by the fiscal agent in one or more separate accounts and shall not be co-mingled with funds of any of the parties to this Agreement. All funds received pursuant to the Act shall be utilized and maintained as set out in the Act. All contributions of the parties shall be deposited directly in the District's general fund.
- E. In the event the Countywide Emergency Communications and Emergency Medical Service Tax, does not generate revenues necessary to fund the approved annual budget or when other costs are not covered, the remaining amount needed to complete the adopted budget then shall be delivered to each party's respective governing body for their approval and the following percentages listed below will apply:

City of Española	43.5%
Village of Chama	1.5%
Jicarilla Apache Nation	1.5%
Rio Arriba County	43.5%
Ohkay Owingeh	10.0%
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Total Budget	100.0 %

Formulated by call volume

1. Members agree that the percentages contained in the current JPA will remain in effect until a new and approved JPA is in place.
2. If a majority of the parties governing bodies approves the annual budget or any budget increase(s), it shall be presented to RA Commission where it is subject to final approval.

3. In the event that any party decides to withdraw pursuant to section VII of this agreement, such party's contribution percentage shall be divided according to the percentages listed in Section V (E).
4. The contribution required to be paid quarterly by each party shall be paid to the District In July 1, October 1, January 1 and April 1 of each year.
- F. No party to this agreement has a duty to pay any debt or other obligation incurred by the District unless there is specific undertaking to do so and an appropriation is approved by the relevant governing body in accordance with law.

VI. BOOKS AND RECORDS

- A. The District shall maintain correct and adequate accounts of its funds, properties and business transactions, which accounts shall be open to inspection at any reasonable times by the parties hereto, or their accountants or agents. There shall be strict accountability for all receipts and disbursements relating hereto.
- B. Within ninety days after the end of each fiscal year, the District shall prepare and present to the parties a comprehensive annual report of the District's activities and financing during the preceding year.
- C. The District shall have its books audited annually by an independent auditor approved by the State Auditor.
- D. In the event that Rio Arriba County Ordinance Number 2005-01 Countywide Emergency Communications and Emergency Medical Services Tax generates revenues in excess of the approved budget and other contractual obligations, the Board may request that those revenues be utilized to purchase Board approved equipment upgrades and capital outlay, subject to the approval of same and a set aside of said tax revenues by the County for emergency medical services equipment upgrades and capital outlay.
- E. The County of Rio Arriba will provide the Board all documents pertaining to the Countywide Emergency Communication and Emergency Medical Services Tax fund to show revenues received by the County and balances of the tax.
- F. The Authority shall prepare and present such reports as may be required by law, regulation or contract to any governmental agency.
- G. The Authority shall also render to the parties hereto, at reasonable intervals, such reports and accounting as the parties may from time to time request.

VII. OPERATING EQUIPMENT AND ACCESS TO COMMUNICATIONS SYSTEMS

- A. All of the consolidated equipment and all communication center equipment subsequently installed in the consolidated communication center facility shall remain property of the District should any of the parties choose to cease its participation in the communications system.
- B. In addition to Paragraph A of this Section, New Mexico State Police District Seven shall receive basic E-911 equipment to enable them to operate as a backup PSAP should E-911 have a major shutdown in the event that New Mexico State Police cannot accommodate the 911 Center, then the Board has the authority to designate an entity to serve as a back-up.
- C. Each entity shall be responsible for acquiring, maintaining and replacing its own mobile and in-house equipment used to communicate with the communications facility not covered by 911 surcharge.

VIII. INSURANCE

The District shall purchase and maintain comprehensive general liability insurance and errors and omissions insurance. The District shall be allowed to pool or consolidate insurance with any entity.

IX. TERMINATION AND WITHDRAWAL

- A. Any party to this agreement may, at any time after providing one hundred eighty (180) days written notice to the Board, may withdraw from this agreement.
- B. This Agreement may be terminated and the District dissolved upon approval by the majority of the governing bodies whom are signatories to the agreement.
- C. Upon termination of this Agreement, any surplus money and/or property acquired from funding paid by the members shall be returned to the parties, which are signatories to this agreement at the time of termination, in proportion to the contributions made.
- D. Property acquired through Local Government Division, Department of Finance & Administration (DFA) shall be disbursed according to the requirements of DFA.

X. IMMUNITY

No provision of the Agreement shall be construed to waive the immunity under the New Mexico Tort Claim Act, NMSA 1978 41-4-1 et seq., or any other provision of the law. Nothing in this Agreement shall be construed to waive the immunity of the Ohkay Owingeh or be construed as authorizing the extension of state law on Pueblo lands or other lands subject to the jurisdiction of the Ohkay Owingeh.

XI. NO THIRD PARTY BENEFICIARIES

It is specifically agreed between the parties executing the Agreement that it is not intended by any of the provisions of a party of the Agreement to create in public, or any member thereof, a third party beneficiary or to authorize or grant standing to anyone not a party to this agreement to sue for any form of legal or equitable relief.

XII. APPROVAL OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION

This Agreement is subject to the approval of the secretary of the Department of Finance and Administration pursuant to the Joint Powers Agreement Act, NMSA 1978, 11-1-1 to 11-1-7 (1994 Rep. Pamp.) and shall not become valid and binding upon the parties until such approval has been made.

XIII. LEASE

This Agreement is contingent on a lease of the facility from the City of Espanola and Rio Arriba County to the District under terms acceptable to the Board, \$1.00 per year.

XIV. SEVERABILITY

If any portion of this Agreement is found to be unlawful, invalid, or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect other provisions hereof and the remaining portions shall remain effective, provided that the fundamental purpose of the Agreement is served.

XV. EFFECTIVE DATE

This Agreement shall be in full force and effect upon execution of this Agreement by all of the parties and approval by the Department of Finance and Administration of the State of New Mexico.

XVI. EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts which shall be effective as if all signatures were affixed to one original document.

XVII. AMENDMENTS

Any amendments to the Agreement will be by consensus of the existing parties to this Agreement. Any amendment shall be provided in writing, executed by all of the parties hereto and is subject to approval by the Department of Finance and Administration.

CITY OF ESPANOLA

By: [Signature]

Its: Interim City Manager

ATTEST:

By: [Signature]



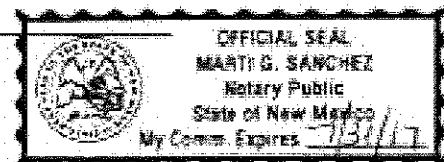
VILLAGE OF CHAMA

By: [Signature]

Its: MAYOR

ATTEST:

By: [Signature]



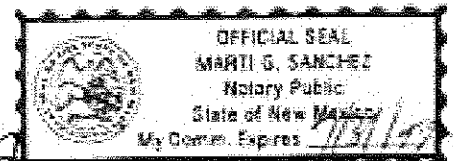
JICARILLA APACHE NATION

By: [Signature]

Its: Chief of Police

ATTEST:

By: [Signature]



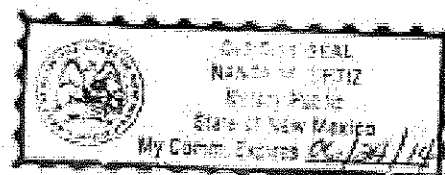
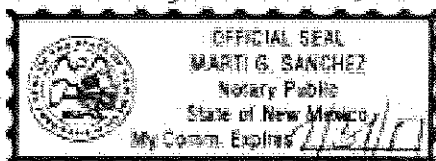
OHKAY OWINGEH

By: [Signature]

Its: Governor

ATTEST:

By: Nancy M. Ortiz



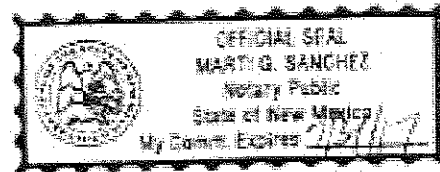
COUNTY OF RIO ARriba

By: Agustin Montoya

Its: Commissioner Chairman

ATTEST:

By: [Signature]



APPROVED:

Department of Finance and Administration

By: _____

Title: _____

Date: _____